

Barrett J. Anderson, CA Bar # 318539
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Tel: (202) 326-2237
banderson1@ftc.gov

Attorney for Plaintiff Federal Trade Commission

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

FEDERAL TRADE COMMISSION,
STATE OF ARIZONA,
STATE OF CALIFORNIA,
DISTRICT OF COLUMBIA,
STATE OF ILLINOIS,
STATE OF MARYLAND,
STATE OF NEVADA,
STATE OF NEW MEXICO,
STATE OF OREGON, and
STATE OF WYOMING,

Plaintiffs,

v.

THE KROGER COMPANY and
ALBERTSONS COMPANIES, INC.,

Defendants.

Case No.: 3:24-cv-00347-AN

**DECLARATION OF BARRETT J.
ANDERSON IN SUPPORT OF
PLAINTIFFS' BRIEF REGARDING
POST-HEARING EXHIBITS**

I, Barrett J. Anderson, declare as follows:

1. I am a Senior Trial Counsel for the Federal Trade Commission, Bureau of Competition. I am over the age of 18 and counsel of record for Plaintiff Federal Trade Commission in the above-captioned action. I make this declaration based on personal ANDERSON DECLARATION ISO PLS.' BRIEF RE POST-HEARING EXHIBITS

knowledge. I make this declaration in support of Plaintiffs' Brief Regarding Post-Hearing Exhibits filed pursuant to Paragraph 3(iii) of the Stipulation and Order Regarding the Scope of the Record, ECF No. 421 ("the Stipulation").

2. Attached to this declaration is a true and correct Joint List of Post-Hearing Exhibits the Parties Agree Are Admissible, filed pursuant to Paragraph 3(i) of the Stipulation.

3. Attached to this declaration is a true and correct Joint List of Post-Hearing Exhibits to Which Defendants Maintain an Objection, filed pursuant to Paragraph 3(ii) of the Stipulation. Defendants' counsel provided the objections contained on this list to me by email at 10:05 a.m. on September 26, 2024.

4. Attached to this declaration as Exhibit A is a true and correct copy of emails exchanged between Defendants' lawyers and myself dated August 28–29, 2024.

5. Attached to this declaration as Exhibit B is a true and correct copy of emails exchanged between Defendants' lawyers and myself dated September 23–27, 2024.

6. Attached to this declaration as Exhibit C is a true and correct copy of the June 6, 2024 order issued by the district court in *FTC v. Novant Health, Inc.*, 5:24-CV-00028-KDB-SCR (W.D.N.C.), in which the court admitted into evidence after the evidentiary hearing a total of 77 exhibits—including 44 documents and portions of 33 investigational hearing and deposition transcripts—that the FTC cited in its post-hearing filings, and which included exhibits offered without a sponsoring or percipient witness.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 27, 2024, in San Diego, CA.

/s/ Barrett J. Anderson

Barrett J. Anderson, CA Bar # 318539

ANDERSON DECLARATION ISO PLS.' BRIEF RE POST-HEARING EXHIBITS

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Tel: (202) 326-2237
banderson1@ftc.gov

Attorney for Plaintiff Federal Trade Commission